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May 22, 2007

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of

WALTER W. MOSHER, JR.

Serial No. 09/033,832

Filed: March 3, 1998

FOR: IDENTIFICATION DEVICE  
HAVING REUSABLE  
TRANSPONDER

Group Art Unit: 3611

Examiner: Joanne Silbermann

Our Docket No. PREDYN-42891

REPLY APPEAL BRIEF

MS: Appeal Brief-Patents  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Gentlemen:

Applicant hereby submits its Reply Brief in connection with the above-identified application, and further to its Notice of Appeal from the Examiner to the Board of Patent Appeals and Interferences, filed May 30, 2006.

PREDYN-42891  
Serial No. 09/033,832  
REPLY BRIEF

## ARGUMENT

Contrary to the arguments set forth in the Examiner's Answer, Tokunaga teaches permanent affixation of the antenna to the connector in the casing. As cited in applicant's main Brief, the Tokunaga reference teaches away from a removable antenna. Tokunaga mentions once that the wristband is removably attached to the casing but never mentions that the antenna is removably attached to the connector.

Throughout the specification, Tokunaga describes the connection terminal of the antenna and the connector in the casing as being attached to form a single unit. In nearly every case this attachment is described as a permanent connection using caulking, welding, metal injection molding, soldering, etc. These "permanent securing process[es]" are in sharp contrast to the Examiner's contention that Tokunaga teaches a removable antenna.

In support of the position that Tokunaga teaches a removable antenna, the Examiner refers to the claim language in Tokunaga. In dependent claim 2, Tokunaga describes the connection terminal as being constructed so that it attaches to and "detaches" from the casing by means of a fixing member, i.e., a screw. Independent claim 5 discusses connectors having a first portion mounted in the casing and a second portion that "detachably receives" the connection terminal.

Apart from these two claims there is no mention in the Tokunaga patent that the antenna is removably connected to the device. This claim language comes without explanation or enablement as to how to practice such removable feature. This is in contrast to the multiple and in-depth explanations of permanent attachment between the connection terminal and connector as cited in applicant's main Brief. See *Bausch & Lomb, Inc. v. Barnes-Hind/Hydrocurve, Inc.*, 796 F.2d 443, 230; USPQ 416, 419 (Fed.Cir. 1986). ("It is impermissible within the framework of Section 103 to pick and choose from any one reference only so much of it as will support a given position to the exclusion of all other parts necessary to the full appreciation of what such reference fairly suggests to one skilled in the art"), citing, *In re Wesslau*, 353 F.2d 283, 284, 147 USPQ 391, 393 (CCPA 1965). As described above and in applicant's main brief, the specification in Tokunaga only describes how to permanently connect the antenna to the device. It is improper to not

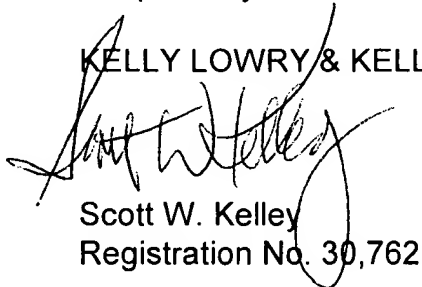
consider a reference in its entirety thereby ignoring those portions of the reference that argue against obviousness. Id at 420.

In addition, a person looking to practice applicant's invention would not have looked to Tokunaga. The connection between the wristband and the casing in Tokunaga is such that it would require the connection to be made prior to attaching the device to a person. The screws which Tokunaga identify as attaching the antenna to the casing are attached from the underside of the casing and could not be inserted after the wristband were placed on a person's wrist. Moreover, the casing in Tokunaga is not even a securement means as set forth in the claims. The casing in Tokunaga is simply that, a casing, as in a digital watch casing. The similarity to a digital watch casing can be clearly seen by looking at Figure 1 of Tokunaga. Tokunaga does not even show a securement means. It is inferred from Tokunaga that the securement means is a buckle as is commonly used on most digital watches today. That securement means in Tokunaga does not operate in any way to connect the antenna to the casing.

For the above reasons and the reasons stated in applicant's initial Brief, applicant requests that the rejection of claims 30, 32, 35-38, 41, 43 and 44 be withdrawn. Applicant submits that the claims are in condition for allowance, notice of which is respectfully requested.

Respectfully submitted,

KELLY LOWRY & KELLEY, LLP

A handwritten signature in black ink, appearing to read "Scott W. Kelley", is written over the printed name and registration number.

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